



CITY OF BEVERLY
DEPARTMENT OF PUBLIC SERVICES AND ENGINEERING
148 Park Street
Beverly, Massachusetts 01915
978-921-6053
978-921-8534 facsimile

Michael P. Collins, P.E.
Commissioner of Public Services and Engineering

Eric Barber, P.E.
City Engineer

SNOW AND ICE CONTROL AGREEMENT
2021-2022

General Conditions

As the Owner or Lessee, hereafter "Contractor", of the equipment listed in this agreement, I, my employees and my partners, if I am a partnership, hereby agree to operate said equipment for the purpose of snow and ice control when and requested by the Beverly Department of Public Services (DPS). Compensation for such services shall be based on the conditions in this agreement and each of the following listed Attachments:

Attachment A, 2021-2022 Hourly Rates

Attachment B, W-9 Form

It is Beverly Department of Public Services' objective to conduct Snow and Ice Operations in conformance with the terms of this Agreement. However, no terms contained herein shall be construed to limit the ability to respond in emergency situations and ensure the safety of the traveling public.

This Agreement shall commence on the date the Agreement has been executed by both the Contractor and Beverly Department of Public Services' Commissioner of Public Services and Engineering. This Agreement shall terminate on May 31, 2022, unless this date is amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended upon prior written notice to the Contractor. Beverly Department of Public Services may terminate or suspend this Agreement without penalty, if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by this Agreement.

Contractors are not employees of the City. Contractors are independent contractors as defined by the Massachusetts Independent Contractor Law, M.G.L. c. 149 § 148B, for all legal purposes in connections with the snow removal operations procured by this agreement.

The Contractor shall comply with all applicable federal and state laws, rules and regulations. If any provision of this agreement is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of this Agreement, or portions thereof, shall be enforced to the fullest extent permitted by law.

The Contractor may not subcontract any portion of this Contract. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under this Agreement, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to this Agreement in accordance with M.G.L. C. 106, §9-318.

Where written notice is required, it shall be deemed delivered and received when submitted in writing, in person or when delivered by any other appropriate method evidencing actual receipt by Beverly Department of

Public Services or the Contractor. The Contractor shall comply with M.G.L. C.66A if the Contractor becomes a "holder" of "personal data".

The Contractor shall provide the City with copies of all certificates of insurance for the Contractor reflecting the coverages required by this agreement and shall maintain documents and records as specified by the Agreement.

All Contractors and equipment operators are required to follow Beverly Department of Public Services' instructions pertaining to snow and ice operations and only plow and apply materials along designated roadways. Failure to comply with Beverly Department of Public Services' instructions and conditions shall be documented and could result in suspension or termination of this Agreement. All material spreaders, chemical tank trucks, and material loader operators are required to respond to 148 Park Street when called and report in upon arrival. At the end of each event they are required to return to 148 Park Street, spin off any unused material, if applicable, and confirm departure times with Beverly Department of Public Services. Applying excess material onto the roadway as a method of spinning off unused material is strictly prohibited.

All plow cutting edges shall be steel unless approved by the Commissioner of Public Services and Engineering.

All Contractors are required to provide their equipment operators with a cellular phone while working for Beverly Department of Public Services. The Contractor or operator must provide the phone number to Beverly Department of Public Services' Supervisor and inform them of any changes.

Compensation

Contractors shall only be compensated for performance delivered in accordance with the specific terms and conditions and the payment mechanism described in this Agreement. Overpayments, or the Contractor's failure to return equipment or deicing materials, shall be reimbursed by the Contractor or may be offset by Beverly Department of Public Services from future payments in accordance with state law.

The plowing time will start when the equipment arrives at the plowing assignment. The driver of each vehicle must sign in and out at the Park Street Office. The driver of each vehicle must sign out, regardless of reason for leaving, breakdown, etc., to be paid. Any time a driver leaves the vehicle, the driver must contact the Park Street Office by radio or telephone. The driver will also notify the Office when plowing resumes.

All rates in this Agreement include the equipment, accessories, licensed qualified operators and operating costs, including but not limited to, insurance, registration fees, maintenance, repairs and fuel. All equipment must arrive filled with fuel, in good working condition, and with all accessories functioning properly.

Failure to meet any of the requirements of this contract; including but not limited to the following: fueled ready for work, cell phone, required vehicle and personal safety equipment accessories may result in immediate removal from the snow and ice operations and nonpayment of the four (4) hour minimum.

Contractors shall be compensated for a minimum of four hours. When the time worked exceeds four hours, the actual time worked shall be compensated. All Contractors will be paid from the time that an operator and required equipment arrives at a Beverly Department of Public Services location to the time they are released by Beverly Department of Public Services. Contractors that arrive more than 60 minutes after being called will not be guaranteed the four-hour minimum compensation, unless additional travel time has been pre-approved by the Commissioner of Public Services and Engineering. Contractors that repeatedly arrive after 60 minutes may be considered unresponsive and replaced at the discretion of the Commissioner of Public Services and Engineering. Increased travel times may be allowed with the approval of the Commissioner of Public Services and Engineering depending on traffic, weather and other conditions beyond the control of drivers and owners. Travel time will not be compensated.

Contractors that are requested to provide equipment for post storm clean-up or other scheduled work where Beverly Department of Public Services sets the required arrival time will not be called for additional scheduled work if they are late three or more times. All requests by Beverly Department of Public Services for post storm scheduled work shall be made at least four hours prior to the scheduled start time whenever possible. All breaks must be requested and approved by a Beverly Department of Public Services Supervisor prior to leaving the designated

route. Depending on operational needs and weather conditions, the approval of break requests may need to be delayed until conditions allow. It is to be clearly understood that no premium time is to be paid for Saturdays, Sundays or Holidays under this Agreement.

The Contractor is responsible for submitting invoices for payment. Invoices shall include Contractor's name, storm date, each piece of equipment used, hourly rate and total due. Multiple storms may be on one invoice. Incomplete invoices will be returned. All invoices must be submitted prior to the end of fiscal year, June 15th or will not be paid, and all claims for payment under any late submitted invoice shall be deemed waived.

Equipment Breakdowns and Repairs

Contractors making a good faith effort to repair broken equipment during a work shift shall be compensated for up to one hour to make repairs. If the equipment cannot be repaired, it shall be removed from service after this time. Each piece of equipment will only be compensated for one breakdown per storm event. If a vehicle has been left on the street for greater than two hours, Beverly Department of Public Services may report the vehicle to the Police for removal. The Contractor is responsible for all costs to have the vehicle towed, if necessary. Contractors will not be allowed to perform any type of maintenance, except emergency repairs, to any vehicles or equipment at any Beverly Department of Public Services facility. If an emergency does arise and it is necessary to perform repair work, it shall be performed in an area designated by Beverly Department of Public Services. No repairs shall be made along roadways in locations that impact traffic flow or are determined to be unsafe by Beverly Department of Public Services or the Police. These vehicles shall be removed as soon as possible.

The Contractor will be liable to clean up and remove any and all fluids, debris, spills, etc, that result from any breakdowns or repair work. If a release or spill is a reportable condition to the Department of Environmental Protection (DEP), the Contractor is required forthwith to notify DEP and the Commissioner of Public Services and Engineering and perform any necessary remediation to satisfy all applicable state and federal regulations, at the Contractor's sole expense.

Safety Requirements

All vehicles and equipment utilized through this Agreement shall be equipped with the following safety equipment:

- One six-inch amber flashing light, mounted on the highest practical point of each vehicle. The light(s) must be visible for a distance of 300 feet during day light hours, from the front, rear and both sides of the vehicle. Vehicles that have a body or attachment that extends above the rear of the cab, must mount the lighting on a bracket or other device to extend the lighting above the body or attachment. Additional installations may be accepted but the lighting must be visible from any position 360 degrees around the vehicle. All installations must be approved by Beverly Department of Public Services.
- Tires must have a minimum of one-quarter inch ($\frac{1}{4}$ ") treads.
- All plows must have a replaceable steel cutting edge in good condition.
- Skids WILL NOT be used.
- Sanders must have flashing lights in the rear of the vehicle. Lights must not be obscured by the sander.
- When snow and/or ice conditions make it impossible or difficult to plow snow, the vehicles chains must be installed immediately thereafter by the Contractor.
- All vehicles and equipment utilized through this Agreement having a class code of 30,000 and a GVW greater than or equal to 16,000 lbs., shall be equipped with the following additional safety equipment:
 - A minimum of two additional flashing amber lights mounted on the rear of either side of the vehicle. These lights shall be at least six inches in one dimension along the lens width or length,

mounted no less than six feet above the roadway and visible for a distance of 300 feet during daylight hours.

The Contractor is responsible to ensure that all drivers and vehicles conform to all applicable Federal, State and Local regulations pertaining to operator safety.

Licenses, Registration and Insurance Requirements

By signing this Agreement, the Contractor certifies under the pains and penalties of perjury that the Contractor shall not knowingly use unlicensed vehicle operators in connection with the performance of this Agreement. This Agreement prohibits the use of unlicensed operators in the performance of this Agreement. The use of any unlicensed operator may be considered a material breach of this Agreement, subjecting the Contractor to sanctions including but not limited to withholding of payments and Agreement suspension or termination.

During the term of this Agreement each Contractor shall maintain a current vehicle registration for the specified equipment in this Agreement. Out of state registrations are allowed, but they must meet all the requirements of the Massachusetts Registry of Motor Vehicles (RMV) and all other applicable motor vehicle laws. All specified equipment in this agreement must have a valid safety sticker. The Contractor agrees to promptly forward a copy of any new or revised registration of listed equipment to the Commissioner of Public Services and Engineering. Failure to keep listed equipment registered will terminate this Agreement relative to each unregistered piece. All registration plates must be attached to the vehicle or equipment at all times during the snow and ice operations.

The Contractor is responsible to ensure that all equipment listed in this Agreement is fully insured as required by all Massachusetts laws and regulations. Contractors shall be solely responsible for damage to public and private property caused by operation of their equipment by them or their employees.

Insurance Requirements

- A. The Contractor shall purchase and maintain such insurance as will protect him from claims under worker's compensation acts and from claims for damages because of bodily injury, including death, and property damage which might arise from and during operations under this contract, whether such operations be by himself or by anyone directly or indirectly employed by either of them.
- B. Contractor shall not commence work under this Contract until he has obtained all insurance required herein nor until such insurance has been approved by the Owner.
- C. All insurance required by this Document shall be provided by a Best "A+ VIII" rated company, or companies, authorized to do business in the Commonwealth of Massachusetts and satisfactory to the owner and shall be written for not less than any limits of liability specified herein, or required by law, whichever is greater.
- D. Certificates: Certificates of Insurance acceptable to the Owner shall be submitted in triplicate to the Owner simultaneously with the execution of the Contract. Certificates shall contain a provision that the insurance company will notify the Owner by registered mail at least (60) calendar days in advance of any cancellation, non-renewal, change or expiration of the policies. Certificates shall include description of coverage, effective dates and expiration dates of policies and shall clearly indicate all exclusions (other than standard policy form exclusions contained in the basic policy) which will be added to the policies provided.
- E. Deductibles: In the event of paid claims, Contractor shall bear costs of any amounts deductible.

Coverage and Limits

A. Workers' Compensation Insurance:

The Contractor shall maintain Workers Compensation and Employers Liability Insurance in accordance with the law and regulations of the Commonwealth of Massachusetts. The limits of liability provided shall be as follows:

Coverage A:	Statutory
Coverage B:	\$100,000/\$500,000/\$500,000

B. Automobile Liability:

The Contractor shall maintain business automobile liability insurance covering all owned, non-owned, leased, rented and hired automobiles (symbol 1). The limits of liability shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence
Bodily Injury:	\$1,000,000 aggregate
Property Damage:	\$1,000,000 per occurrence

Automobile physical damage coverage shall be at the option of the Contractor. The Owner shall not be liable for physical loss or damage to any owned, non- owned, leased, rented or hired automobile.

C. General Liability:

The Contractor shall maintain a general liability policy for slip and fall or other claims arising out of the Contractors' completed operations. The limits of liability shall be at least as follows:

Combined Bodily Injury and Property Damage liability:	\$1,000,000
Combined Annual Aggregate Limit:	\$2,000,000

The Contractor shall name the City of Beverly as "Additional Insured" by endorsement for Products and Completed Operations. The Contractor shall also state "Snow Plowing" for Description of Operations.

Indemnification

The Contractor agrees to indemnify, defend and hold harmless the City of Beverly and its officers, employees, agents, boards and commissions for any claims or damages caused by the acts or omissions of the Contractor and/or anyone they directly or indirectly employ in connection with the Contractor's operations in the performance of this contract. The Contractor shall take responsibility for the work and take all precautions for preventing injuries to persons and property in or about the work and shall bear all losses resulting to it on account of amount or character of the work. The Contractor shall pay or cause payment to be made for all labor performed or furnished and for all materials used or employed in carrying out the Contract. The Contractor shall assume the defense of, and indemnify and save harmless, the Owner, and their officers and agents from all claims relating to labor performed or furnished and materials used or employed for the work: to inventions, patents and patent rights used in and in doing the work unless injuries to any person or corporation received or sustained by or from the Contractor and its employees in doing the work, or in consequence of any improper materials, implements or labor used or employed therein; and to any act, omission or neglect of the Contractor and its employees therein.

2021-2022 Agreement Submission Deadlines and Requirements

Contractors must complete, sign and submit the specified documents on or before the following deadlines.

November 30, 2021 - The following items must be delivered to 148 Park Street indicating your interest in working for Beverly Department of Public Services for the 2021-2022 winter season:

1. One original Equipment Listing sheet for each Contractor requests to work.
2. One original of Beverly Department of Public Services' 2021-2022 Snow and Ice Control Agreement Signature Page.
3. W-9 Tax Form (Only required for new vendors or returning vendors, who have changed their company name, address or tax identification number.)
4. A copy of the current vehicle registration for each piece of equipment listed on the Equipment Listing sheet.
5. A copy of the Certificate of Liability Insurance for each piece of equipment listed on the Equipment Listing sheet, as shown below.

The image shows a standard ACORD Certificate of Liability Insurance form. It includes sections for:
- **COVERAGES**: A table with columns for Coverage, Amount, and Description.
- **CERTIFICATE HOLDER**: Information about the insured party.
- **CANCELLATION**: Information about the policy's validity and cancellation.
- **ACORD 25 (01/16/05)**: The form number and date.
- **The ACORD name and logo are registered marks of ACORD**: A disclaimer at the bottom.

Agreement Approval and Assignment Notification

The Contractors that are selected for snow plowing for the application period will be the first parties considered for the hauling of snow if they submit an application for both the plowing and hauling items.

This Agreement and necessary attachments are required to be mailed or delivered to the Department of Public Services office located at 148 Park Street, Beverly.

It shall be the responsibility of the owner/contractor to read this agreement in its entirety to insure all submission deadlines and requirements have been met. Beverly Department of Public Services will make every effort to notify contractors as to what information is outstanding.

Upon submission of the required documents, Beverly Department of Public Services will contact the Contractor with their assigned depot location.



SNOW AND ICE CONTROL AGREEMENT

2021-2022

Signature Page

Contractor Name: _____

Mailing Address: _____

Street, City, State, Zip

Primary Phone No: _____ Secondary Phone No.: _____

Email Address: _____

I, _____, hereby sign this agreement certifying that I have read,

Contractor's Name

understand and agree to comply with all of the conditions stated within the 2021-2022 Snow and Ice Control Agreement and any applicable attachments.

Contractor Signature

Date

Attachment A

2021-2022 Hourly Rates

Vehicles	Hourly Base Rate
4WD Pickup ¾ or one ton with 8' plow	\$ 102.00
10,000 - 15,000 GVW, 6 wheel dump or rack body with plow (F350,F450)	\$ 115.00
15,001 - 28,000 GVW, 6 wheel with plow (F550)	\$ 140.00
28,001+ GVW, 6 wheel with plow	\$ 160.00
10 wheel with plow or tri-axle	\$ 190.00
Specialty Equipment	
Skid Steer, with AWD	\$ 110.00
Loaders	
Loader less than 2 CY, with plow	\$ 135.00
Loader 2.00 - 3.00 CY, with plow	\$ 175.00
Loader 3.50 - 5.00 CY, with plow	\$ 220.00
Backhoes	
Backhoe with or without plow	\$ 150.00
Spreaders/Liquid Chemical Trucks	
1.00 – 2.50 CY spreader body, with plow	\$ 145.00
2.75 – 5.00 CY spreader body, with plow, Class 3 – Class 5 trucks	\$ 160.00
5.00 CY or greater spreader body, with plow (CDL Class Trucks), Class 6+ trucks	\$ 200.00
Hauling	
6 Wheel Dump	\$ 100.00
10 Wheel Dump	\$ 150.00
Trailer	\$ 180.00

Attachment B
W-9 Form

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see Instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
	- -
or	
Employer identification number	
	-

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign
Here**

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China Income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for ...	THEN the payment is exempt for ...
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(ii)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in Items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/identitytheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.